

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No.19721 of 2005

Dated: 02-03-2006

Between:

Smt. K.Aruna Devi

..... PETITIONER

AND

The Divisional Manager, Indian Oil
Corporation, Visakhapatnam and two others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No.19721 of 2005

O R D E R:

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The first respondent-Divisional Manager, Indian Oil Corporation,
Visakhapatnam, published a notification dated

29-04-2005 in the local dailies inviting applications for Retail Outlet Dealership at various places in Andhra Pradesh. So far as the Retail Outlet at Rajahmundry is concerned, in the notification it was mentioned that it is reserved for women belonging to Schedule Caste (SC) Community. It is not in dispute that the petitioner as well as the third respondent belong to SC Community and both submitted their applications along with necessary papers in response to the notification dated 29-04-2005 seeking dealership of the Retail Outlet at Rajahmundry. Both the petitioner and the third respondent appeared before the Selection Committee for interview and as per the recommendation made by the said committee, the third respondent was selected as the Dealer. The said selection of the third respondent for the dealership of Retail Outlet of Indian Oil Corporation at Rajahmundry is under challenge in this writ petition.

In the affidavit filed in support of the writ petition, the petitioner has pleaded that whereas the third respondent, who is aged below twenty six years, is a post-graduate and is pursuing her engineering course and possessed no business experience, the petitioner has the business experience of seven years. That apart, so far as the credit worthiness is concerned, besides submitting the cash balances standing in the bank accounts, the petitioner had also submitted third party letters pledging credit support in her favour. Hence, there is absolutely no reason to award more marks to the third respondent particularly with regard to experience, business ability & Acumen and loans/credit worthiness certificate. The petitioner also contends that since she possessed additional qualification relating to diploma in nursing she is entitled for one more mark. Thus, according to the petitioner, the selection of the third respondent is arbitrary and illegal and contrary to the notified procedure and therefore the same is liable to be set aside.

The learned counsel for the petitioner contends that the respondents 1 and 2 are bound to evaluate the applications made by the candidates in terms of the procedure prescribed in the annexure appended to the notification dated 24-09-2005. He points out that as per the requirements under the notification, it is mandatory for the applicants to submit Appendix-A2 as specified therein along with the applications except those who belong to SC/ST category. The said Appendix-A2 relates to the credit worthiness certificate to be obtained from any scheduled bank/financial institute specifying that in the event of applicant

being granted dealership, the banker would advance so much of amount as loan to set up the outlet. Since admittedly the petitioner and the third respondent belong to SC category, the requirement of production of banker's certificate is not mandatory but in spite of the same, the respondents 1 and 2 have awarded five marks to the third respondent and nil marks to the petitioner on the ground that the third respondent had furnished banker letter. He further contends that the said procedure followed by the respondents 1 and 2 is quite contrary to the conditions prescribed in the notification.

On behalf of the respondent-Corporation, a counter affidavit has been filed stating that the interviews for selection of dealership at Rajahmundry under the reserved category of SC women were conducted on 28-06-2005 and out of the fourteen eligible candidates called for the interview, only ten candidates were present. As per the selection norms, the interviews were conducted by a duly constituted Dealer Selection Committee comprising three senior officers of the respondent-Corporation. After the interviews were concluded, the merit panel was displayed on the notice board on the very same evening in accordance with the selection guidelines. It is also stated that the interviews were conducted strictly as per the parameters of assessment prescribed by the Ministry of Petroleum and Natural Gas, Government of India, which obviates any possibility of subjective or extraneous considerations playing a role in the selection. After the comparative assessment of the merits of the candidates under various heads of assessment, it emerged that the third respondent was the most meritorious candidate with an average of 47 marks while the petitioner secured the second rank in the merit panel with an average of 44.5 marks. The said selection being utmost transparent and in consonance with the detailed norms and guidelines prescribed by the Government of India is above board. It is further stated that with regard to the head of assessment pertaining to letter of ensuring loan/credit worthiness certificate, from scheduled banks/financial institutions, the norms prescribed a maximum of five marks. Whereas the third respondent at the time of interview produced a letter from the bank of India certifying that it would extend financial assistance to her in case of her getting the dealership, the petitioner failed to produce such a letter from a scheduled bank/financial institution. Hence, the petitioner failed to secure any marks under the head of assessment while the third respondent secured full five marks. Similarly, with regard to the criteria of educational qualifications,

whereas the petitioner has only passed SSC, the third respondent is an engineering graduate. Accordingly, as per the norms, the third respondent was awarded fifteen marks being a technically qualified person while the petitioner being a Secondary School Certificate holder was awarded only seven marks. It is also stated that as per the norms, a Professional Diploma from a recognized institution only entitles a candidate to an additional one mark as claimed and since the petitioner's training course in nursing is not equivalent to a professional diploma she is not entitled to any additional mark. So far as the age and experience is concerned, it is stated that the third respondent produced a satisfactory documentation to prove her business experience and she was accordingly awarded two marks as was the petitioner. Since, admittedly the third respondent is younger to the petitioner, she was awarded only two marks whereas the petitioner secured four marks. With regard to the contention raised by the petitioner in respect of Appendix-A2, it is stated that the notification dated

29-04-2005 calling for applications from the eligible candidates inadvertently contained a mistake and under the caption Appendix-A2, it was erroneously stated that the said Appendix-A2 letter was to be submitted by all applicants except those applying under the category reserved for SC/ST. However, para 13 of the application format in the same notification makes clear the correct position that all the candidates including those under the category reserved for SC/ST should submit such information. Under para 13 a categorical note has been appended specifically stating that the candidates applying under the category reserved for SC/ST need not provide details under para 12, which pertains to land details only. It is therefore not open to the petitioner to take advantage of the inadvertent mistake in the notification so as to assail the correctness of the selection.

The third respondent filed a separate counter affidavit denying all the allegations made by the petitioner.

Having heard the learned counsel for both the parties in detail and having perused the material on record, I do not find any error in the procedure adopted by the respondents

1 and 2 in selecting the third respondent.

The discrepancy in para 13 of the notification, pointed out by the petitioner cannot be said to have vitiated the selection process and particularly the petitioner cannot be said to have suffered any prejudice on account of the said discrepancy.

That apart the law is also well settled that the extra ordinary jurisdiction under Article 226 of the Constitution of India cannot be invoked as an appellate remedy against the selection process. This Court while exercising jurisdiction under Article 226 of the Constitution of India would not embark on a roving enquiry into the matter and would not evaluate the correctness of the assessment made by the selection committee and particularly the decision itself.

In the case on hand, admittedly the selection committee consists of senior officers of the first respondent-Corporation and specific norms and guidelines were prescribed by the Ministry of Petroleum and Natural Gas, Government of India, to be followed by the committee. The material on record shows that the selection was made in accordance with the norms and guidelines, which were strictly followed by the selection committee, and accordingly marks were awarded objectively under the prescribed heads of assessment. The selection of the third respondent based on such assessment made by the duly constituted selection committee cannot be interfered with by this Court since this Court will never sit in appeal over the selection process. The law is also well settled that it is only for the selection committee to assess comparative merit of the candidates appeared before them and to award marks assessing the personality of the candidates, their capability to arrange finance, capability to provide infrastructure and general assessment. The Courts would not substitute the view of the selection committee consisting of experts in assessing relative merit on the basis of the criteria fixed.

Viewed from any angle, I do not find any substance in the contentions raised by the petitioner and the writ petition is accordingly dismissed. No costs.

G.ROHINI,J

Dated: 02-03-2006

klp/ghn